



# NEWS

Federal Communications Commission  
445 M Street, N.W.  
Washington, D. C. 20554

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Report No. IN 98-18

INTERNATIONAL ACTION

April 24, 1998

## COMMISSION DECLARES COMSAT NON-DOMINANT IN COMPETITIVE MARKETS; ISSUES NPRM ON TRANSITION FROM RATE OF RETURN REGULATION TO ALTERNATIVE INCENTIVE-BASED REGULATION IN NON-COMPETITIVE MARKETS AND COMMITS TO EXAMINE DIRECT ACCESS IN FUTURE PROCEEDING (IB DOCKET 98-60)

The Commission has granted the request of Comsat Corporation for reclassification as a non-dominant common carrier in five product markets, which account for approximately 85% of Comsat's INTELSAT revenues. Specifically, the Commission found Comsat non-dominant in the provision of INTELSAT switched voice, private line, and occasional-use video services to markets that it determined to be competitive. It also found Comsat non-dominant in the provision of full-time video and earth station services in all markets. In the markets where Comsat has been reclassified as non-dominant, Comsat will be allowed to file tariffs on one day's notice, without economic cost support, in the same form as filed by other non-dominant common carriers, and the tariffs will be presumed lawful. By virtue of finding Comsat non-dominant in these markets, the Commission is eliminating rate of return regulation in these markets.

The Commission also indicated it expeditiously would initiate a proceeding to explore the legal, economic and policy implications of enabling users to have direct access to the INTELSAT system. Approximately 94 other countries permit direct access to the INTELSAT system.

The Commission denied Comsat's non-dominant reclassification request with respect to switched voice, private line and occasional-use video services to non-competitive markets where it found that Comsat remains dominant. It also denied Comsat's request that the Commission forbear under Section 10 of the Communications Act from enforcing the Commission's dominant common carrier tariff rules in non-competitive markets. The Commission considered but rejected Comsat's three-year "price cap" and "uniform pricing" proposals for these markets, and found that Comsat did not satisfy the statutory requirements for forbearance relief under the circumstances. The Commission indicated, however, that it would favorably consider in its analysis of any forbearance request a commitment by Comsat to (a) allow U.S. carriers and users to obtain Level-3 direct access to the INTELSAT system and (b) make an appropriate waiver of its INTELSAT derived immunity from suit and legal process. Such actions would promote competitive market conditions in the INTELSAT markets in which Comsat remains dominant.

The Commission also indicated that it will consider replacing rate of return regulation for Comsat's dominant markets with an alternative form of incentive-based regulation and, as part of its reclassification decision, the Commission issued a Notice of Proposed Rulemaking seeking public comment on its tentative conclusions that any alternative incentive-based regulation plan

to be adopted should (a) enable users on non-competitive routes to benefit from competitive rates; (b) remain in effect indefinitely; and (c) allow users to benefit from reduced rates due to increases in efficiency and productivity. Comsat will be subject to alternative incentive-based regulation once such regulation is adopted in this proceeding.

Finally, the Commission found that Comsat's continued dominance in the provision of switched voice, private line and occasional-use video services to non-competitive markets was an insufficient basis for continuing to require structural separation between Comsat's INTELSAT services and other activities. It concluded that the costs of imposing such a requirement would exceed any potential benefits to competition. The Commission granted Comsat's request for the elimination of structural separation for its INTELSAT services because structural separation is no longer necessary to safeguard Comsat's competitors from Comsat leveraging its monopoly jurisdictional services to gain an advantage in competitive markets in which it is operating.

The 63 countries in which Comsat will continue to be considered dominant for switched voice and private line services are:

- |     |                          |     |                                 |
|-----|--------------------------|-----|---------------------------------|
| 1.  | Algeria                  | 36. | Micronesia, Federated States of |
| 2.  | American Samoa           | 37. | Midway Atoll                    |
| 3.  | Angola                   | 38. | Moldova                         |
| 4.  | Armenia                  | 39. | Mozambique                      |
| 5.  | Azerbaijan               | 40. | Namibia                         |
| 6.  | Benin                    | 41. | Nauru                           |
| 7.  | Bolivia                  | 42. | New Caledonia                   |
| 8.  | Bosnia & Herzegovina     | 43. | Nicaragua                       |
| 9.  | Botswana                 | 44. | Niger                           |
| 10. | Burkina                  | 45. | Northern Mariana Islands        |
| 11. | Cameroon                 | 46. | Pacific Islands (Palau)         |
| 12. | Cape Verde               | 47. | Paraguay                        |
| 13. | Central African Republic | 48. | Rwanda                          |
| 14. | Chad                     | 49. | Saint Helena                    |
| 15. | Congo                    | 50. | Senegal                         |
| 16. | Cote d'Ivoire            | 51. | Sierra Leone                    |
| 17. | Estonia                  | 52. | Somalia                         |
| 18. | Ethiopia                 | 53. | Sudan                           |
| 19. | French Polynesia         | 54. | Suriname                        |
| 20. | Gabon                    | 55. | Swaziland                       |
| 21. | Ghana                    | 56. | Tanzania                        |
| 22. | Guinea                   | 57. | Togo                            |
| 23. | Iran                     | 58. | Tonga                           |
| 24. | Iraq                     | 59. | Turks and Caicos Islands        |
| 25. | Jordan                   | 60. | Uganda                          |
| 26. | Kenya                    | 61. | Western Samoa                   |
| 27. | Lesotho                  | 62. | Zaire                           |
| 28. | Libya                    | 63. | Zambia                          |
| 29. | Lithuania                |     |                                 |
| 30. | Malawi                   |     |                                 |
| 31. | Mali                     |     |                                 |
| 32. | Maritime -Atlantic       |     |                                 |
| 33. | Maritime -Pacific        |     |                                 |
| 34. | Mauritania               |     |                                 |
| 35. | Mauritius                |     |                                 |

The 142 countries in which Comsat will continue to be considered dominant for occasional-use video service are:

**South America**

Columbia  
French Guiana  
Guyana  
Paraguay  
Suriname  
Trinidad & Tobago

**Central America/  
Caribbean**

Anguilla  
Antigua  
Aruba  
Bahamas  
Belize  
Bermuda  
British Virgin Islands  
Cayman Islands  
Chagos Archipelago

Costa Rica  
Dominica  
Dominican Republic  
El Salvador  
Gibraltar  
Grenada  
Guadeloupe  
Guatemala  
Haiti  
Honduras  
Martinique  
Montserrat  
Netherlands Antilles  
Panama  
Saint Kitts & Nevis  
Saint Lucia  
Saint Vincent  
Turks & Caicos

**Western Europe**

Cyprus  
Greenland  
Iceland

Malta  
Norway

**Eastern Europe**

Albania  
Belarus  
Bulgaria  
Czech Republic  
Estonia  
Lithuania  
Macedonia  
Moldova  
Russia  
Serbia  
Slovenia

**Middle East**

Bahrain  
Iran  
Israel  
Jordan  
Kuwait  
Lebanon  
Oman  
Qatar  
Saudi Arabia  
Syria  
United Arab Emirates  
Yemen

**Africa**

Algeria  
Angola  
Benin  
Botswana  
Burkina Faso  
Burundi  
Cameroon  
Cape Verde  
Central African Republic  
Chad  
Congo  
Dem Rep Congo  
Djibouti  
Egypt

Eq. Guinea  
Ethiopia  
Gabon  
Gambia  
Ghana  
Guinea  
Guinea-Bissau  
Ivory Coast  
Kenya  
Lesotho  
Liberia  
Libya  
Madagascar  
Malawi  
Mali  
Mauritania  
Mauritius  
Morocco  
Mozambique  
Namibia  
Niger  
Nigeria  
Rwanda  
Saint Helena  
Sao Tome  
Senegal  
Sierra Leone  
Somalia  
South Africa  
Sudan  
Swaziland  
Tanzania  
Togo  
Tunisia  
Uganda  
Zaire  
Zambia  
Zimbabwe

**Central Asia**

Afghanistan  
Armenia  
Azerbaijan  
Georgia  
Kazakhstan  
Kyrgyzstan  
Mongolia  
Myanmar

Tajikistan  
Turkmenistan  
Uzbekistan

**South Asia**

Bangladesh  
India  
Maldives  
Nepal  
Pakistan  
Sri Lanka

**Far East**

Brunei  
Cambodia  
Laos  
Malaysia  
North Korea  
South Korea  
Thailand  
Vietnam

**Pacific Rim**

American Samoa  
Fiji  
French Polynesia  
Macau  
Marshall Islands  
Micronesia  
Midway Islands  
Nauru  
New Caledonia  
New Zealand  
Palau  
Papua New Guinea  
Tonga  
Vanatu  
Western Samoa

Action by the Commission April 24, 1998, by Order and Notice of Proposed Rulemaking (FCC 98-78). Chairman Kennard, Commissioners Ness, Furchtgott-Roth, Powell and Tristani.

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News Media contact: Rosemary Kimball at (202) 418-0500.

International Bureau contacts: Jim Ball - (202) 418-0427

Peter Pappas - (202) 418-0746

Dan Connors - (202) 418-0755